

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

County of DuPage,
Petitioner,

v.

Elgin, Joliet, and Eastern Railway Company,
Respondent.

Petition for the construction of a bicycle-pedestrian grade
separation structure over the Elgin, Joliet, and Eastern
Railway's tracks at the Illinois Prairie Path-Elgin Branch
(DuPage County Highway 48), located in Wayne, DuPage
County, designated as AAR/DOT #260 803X, railroad milepost
33.4-A.

T09-0066

TO THE ILLINOIS COMMERCE COMMISSION:

The COUNTY OF DU PAGE, on May 19, 2009, filed its Petition naming as Respondents: Elgin, Joliet, and Eastern Railway, a wholly owned subsidiary of the CN, the Illinois Department of Transportation, Commonwealth Edison, the Village of Wayne, and the Township of Wayne.

With respect to the relief sought from the Commission, the appropriate Respondent should be noted only as "Elgin, Joliet, and Eastern Railway Company," which is a wholly and indirectly owned subsidiary of the CN." This modification is reflected in the caption above, and is provided in the included Amended Petition.

Respectfully submitted,
THE COUNTY OF DU PAGE, ILLINOIS

By: _____/s/_____
Charles F. Tokarski, P.E.
County Engineer

Dated: June 5, 2009

COUNTY OF DU PAGE
VS
ELGIN, JOLIET, AND EASTERN RAILWAY COMPANY, a wholly
owned subsidiary of the CN;
Respondent,
Petition for the construction of a bicycle-pedestrian-equestrian
grade separation structure over the Elgin, Joliet, and Eastern
Railway's tracks at the Illinois Prairie Path-Elgin Branch
DuPage County Highway 48), located in Wayne, DuPage
County, designated as AAR/DOT #260 803X, railroad milepost
33.4-A

TO THE ILLINOIS COMMERCE COMMISSION:

1. The Petitioner has jurisdiction under the laws of the State of Illinois, being the Illinois Highway Code and Illinois Municipal Code, over County Highway 48, the Illinois Prairie Path-Elgin Branch, (hereinafter referred to as the “IPP”) that is a part of the DuPage County Highway System, which carries bicycle-pedestrian-equestrian traffic across the Elgin, Joliet, and Eastern Railway, a wholly and indirectly owned subsidiary of the CN (hereinafter referred to as the “Railroad”) tracks at-grade in the east half of the Southwest Quarter of Section 17, Township 40 North, Range 9 East of the Third Principal Meridian and proposes to construct a bicycle-pedestrian-equestrian grade

separation structure over the Railroad (AAR/DOT #260 803X) at the location shown in Exhibit A attached hereto and made part thereof.

2. The mainline track of the Railroad is oriented in a north-south direction intersecting the IPP just south of Army Trail Road in the Village of Wayne, Illinois.

3. DuPage County has an extensive bicycle path system that is continuing to grow. In addition to the IPP system, which extends from one end of the County to the other, the County has developed a comprehensive bikeway plan that includes numerous feeder bicycle paths/routes to access the IPP system.

4. The crossing is not located near a school.

5. The current average daily bicycle-pedestrian-equestrian traffic is 180 and the current train traffic volume is approximately 13 freight trains per day which is expected to soon increase. The existing profile of the path on the east side of the Railroad has a steep down grade as it approaches the crossing and bicyclists who do not get off their bicycles and walk down a set of stairs risk injury riding down a narrow and steep path. The combination of these factors justifies the need for a grade separation.

6. The existing IPP crossing is equipped with stops signs and railroad cross-bucks only.

7. The geometric and general information for both the Railroad and the IPP portion of the crossing is detailed on pages 1 to 4 in Exhibit B which is attached hereto and made a part hereof.

8. The Petitioner has prepared plans and specifications known as County Section 98-00313-00-BR incorporated herein by reference that proposes a bicycle-pedestrian-equestrian grade separation structure over the Railroad's tracks at the IPP

(hereinafter referred to as the “Project”). The proposed bridge is a three span prefabricated bridge with two piers and a minimum vertical clearance of 23 feet over the existing single track with a minimum vertical clearance of 21.6 feet over the full width of the Railroad right-of-way. The piers will be constructed outside of the Railroad right-of-way and the bridge will span the Railroad right-of-way. No additional right-of-way is required for the bridge. A License Agreement, provided as Exhibit C has previously been entered into between the Petitioner and the Railroad for the Project. The estimated construction cost for this Project is \$1,925,700.00. The proposed allocation of Project costs and Project schedule are shown in Exhibit D attached hereto and made part thereof.

9. The Petitioner proposes to eliminate the existing at grade bicycle-pedestrian-equestrian crossing and path approaches/connections across the Railroad right-of-way within the Project limits upon completion of the Project.

10. The Petitioner proposes to close the path to users during construction of the Project which is anticipated during the winter and spring when path usage is at a lower level to minimize the amount of disruption to users of the IPP.

11. Project funding has been secured and the bid opening for construction of the Project has been scheduled for July 31, 2009 in order to allow construction during the winter and spring.

12. Based on the scheduled letting, and in an effort to streamline the process, an Agreed Order was drafted by the Commission Staff (“Staff”) and circulated to the Petitioner and the Railroad. Comments raised by the Railroad have been responded to and the Petitioner remains hopeful that the Petitioner and the Railroad will concur on an Agreed Order. The Petitioner will keep the Commission informed of ongoing

communication with the Railroad. Correspondence between the Petitioner, the Railroad and Staff is included as Exhibit E.

WHEREFORE, Petitioner requests that the Illinois Commerce Commission hold a hearing to the extent and by the method as may be necessary and proper, and enter such Order, pursuant to subsection (3) of Section 18c-7401 of “The Illinois Commercial Transportation Law,” effective January 1, 1986, as amended (625 ILCS 5/ 18c-7401), regarding replacement of the existing at-grade crossing with a separation of grades by construction of a bicycle-pedestrian-equestrian bridge over the Railroad in accordance with the Project final plans, all as may be necessary to preserve, promote and protect the safety and convenience of the public in the premises herein described.

The Petitioner further specially requests that based on the secured funding and established bid opening date that all necessary steps be taken by the Illinois Commerce Commission to expedite, accelerate and advance upon its docket for immediate consideration, the matter of this Petition.

The Petitioner further specially requests that matters concerning any future major alterations to the bridge to be constructed shall be brought before the Illinois Commerce Commission for issuance of an Order.

Respectfully submitted,
THE COUNTY OF DUPAGE, ILLINOIS

By: ____/s/_____
Charles Tokarski, P.E.
County Engineer